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April 6, 1998

BY HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20008

**Re: In The Matter of : Policies and Rules for the Direct Broadcast
Satellite Service, IB Docket No. 98-21**

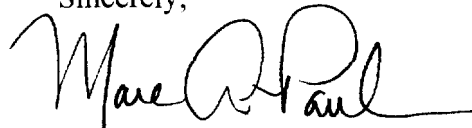
Dear Ms. Salas:

On behalf of EchoStar Communications Corporation ("EchoStar"), enclosed for filing is an original and four copies of EchoStar's Comments in the above-referenced matter.

Also enclosed is an additional copy of EchoStar's Comments which we ask that you date stamp and return with our messenger.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Marc A. Paul

*Counsel for EchoStar
Communications Corporation*

cc. of Copies rec'd 0 + 4
LOP ABCDE

Dated: April 6, 1998

SUMMARY

EchoStar Communications Corporation (“EchoStar”) hereby files these Comments in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) in the above-captioned matter. EchoStar applauds the Commission’s efforts to streamline Direct Broadcast Satellite (“DBS”) regulations. Reducing the regulatory burdens that DBS providers face will increase the likelihood of effective competition in the multichannel video programming distribution (“MVPD”) market.

EchoStar agrees with the Commission’s proposal to harmonize application requirements for all satellite services, including DBS. Similarly, EchoStar supports the Commission’s proposal to grant a construction permit, launch authorization and license for DBS space station facilities through one process. Consolidating these proceedings will conserve both Commission and private resources. At the same time, the Commission should be mindful of, and preserve, the nature of DBS as a lightly regulated service, and should not allow procedural simplification to import substantive changes that would interfere with that nature, such as many of the technical requirements of Part 25.

The NPRM’s proposal on cable/DBS cross-ownership restrictions is similarly constructive so long as it is applied to all entities and industries evenhandedly. On the other hand, such a restriction could seriously harm the public interest if it were to be fashioned so as to exempt the entities or transactions to which they should most forcefully be applied. Thus, EchoStar supports, in principle, a cross-ownership restriction as between cable operators and DBS providers. Plainly put, such a restriction would prevent cable operators from co-opting scarce DBS spectrum resources. Such a restriction would be arbitrary, meaningless and indeed harmful if it were not applied to the current effort of PRIMESTAR to acquire the DBS permit of

MCI Telecommunications Corporation. Approval of this transaction would effectively create a market model where DBS would be consigned to be a complement, not a substitute, for cable. In such a case, it would be inappropriate to deny other DBS providers what at that point might sadly become their only choice – providing complementary services in conjunction with cable operators.

The NPRM does not propose the imposition of any “intra-service” cap on DBS spectrum, and EchoStar agrees with this approach. There is no question that the MVPD market is the relevant product market. Moreover, important changes have taken place since 1995, when the Commission had imposed a *one-time* restriction on the number of full-CONUS locations assigned to each DBS permittee. At that time, the Commission had expected that no two full-CONUS locations could be used in conjunction with only one dish. Since that time, EchoStar developed a plan to use a single dish to provide service from two full-CONUS slots; indeed, such a service is important to EchoStar’s strategy of incorporating local broadcast signals and competing head-to-head with cable. Therefore, the Commission should evaluate transactions resulting in greater aggregations of DBS channels on a case-by-case basis.

The Commission’s listing of unassigned DBS channels disregards EchoStar Satellite Corporation’s (“ESC”) permit for 11 unspecified western channels. Since 1992, there has been pending ESC’s request for western channels. Since December 1995, the Commission has similarly deferred decision on whether to extend ESC’s permit for these assignments. ESC has satisfied the FCC’s diligence requirements and awaits its assignments prior to any possible auction of unassigned or reclaimed DBS spectrum.

The Commission also invites comment on its geographic service requirements.

EchoStar will provide the first-ever DBS service to Hawaii and Alaska with the launch of its next satellite, and it is sensitive to the needs of these states. At the same time, EchoStar is opposed to the expansion of these requirements and the adoption of an “off-shore states policy.” DBS providers, the new entrants in the MVPD market, are already subject to several regulatory burdens that do not apply to incumbent cable operators. By their nature, these burdens hamper a DBS providers’ ability to compete effectively against cable. The Commission should not further disadvantage DBS providers by expanding these unilateral burdens.

EchoStar is not opposed, in principle, to the elimination of Section 100.53(a), but respectfully urges the Commission to take into account plans made by pre-January 1996 permittees in the absence of geographic service rules, and accordingly, limit the scope of the rules. To that end, EchoStar disagrees that the renewal, extension or receipt of launch authority with respect to pre-1996 authorizations should trigger the new rules. Particularly, in the case of renewals, permittees with operational satellites that are not equipped to serve Alaska and Hawaii should not be prevented from receiving a second license term and operating their satellite throughout its useful life. If the Commission were to apply the requirements to eastern licensees applying for renewals, it would be broadening the scope of the requirements and upsetting the balance struck in the 1995 rules. Accordingly, the Commission should eliminate the clause “extending, or renewing” from its proposed rule § 25.146(d), or at least strike “renewing” to protect renewals of the licenses of operational satellites with pre-1996 authorizations. Alternatively, the commission should preserve the language of § 100.53(a) and clarify it as

follows: “those with authorizations received prior to January 19, 1996 must serve Alaska and Hawaii from either their eastern or their western assignments.”

TABLE OF CONTENTS

	PAGE
SUMMARY	i
I. ECHOSTAR SUPPORTS THE COMMISSION'S PROPOSALS TO STREAMLINE THE DBS SERVICE RULES	2
II. THE COMMISSION SHOULD IMPOSE A DBS CROSS-OWNERSHIP RESTRICTION	3
III. THE COMMISSION SHOULD NOT IMPOSE AN INTRA-SERVICE CAP ON DBS SPECTRUM, BUT SHOULD EVALUATE TRANSACTIONS ON A CASE-BY-CASE BASIS	5
IV. THE COMMISSION SHOULD GRANT ECHOSTAR'S PENDING REQUEST FOR 11 WESTERN CHANNELS.....	7
V. THE COMMISSION MUST CLARIFY THE PROPOSED MODIFICATIONS TO ITS DBS GEOGRAPHIC SERVICE REQUIREMENT	9
A. Service to Alaska and Hawaii	9
B. The Adoption of the Off-Shore States Policy Would be Detrimental to MVPD Competition	11
VI. THE COMMISSION'S PROPOSED TECHNICAL RULES	12
VII. CONCLUSION	14

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:

Policies and Rules for the
Direct Broadcast Satellite Service

)
)
) IB Docket No. 98-21
)
)

COMMENTS OF ECHOSTAR COMMUNICATIONS CORPORATION

EchoStar Communications Corporation (“EchoStar”) hereby files these Comments in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) in the above-captioned matter.¹ EchoStar applauds the Commission’s efforts to streamline Direct Broadcast Satellite (“DBS”) regulations. Reducing the regulatory burdens that DBS providers face will increase the likelihood of competition in the multichannel video programming distribution (“MVPD”) market. While EchoStar supports many of the Commission’s proposals to consolidate and clarify its DBS service rules, it is concerned that other proposals, such as those relating to cable cross-ownership limits and expansion of geographic service requirements,

¹ Policies and Rules for the Direct Broadcast Satellite Service, FCC 98-26 (rel. Feb. 26, 1998) (“DBS NPRM”). Through its wholly-owned subsidiaries, EchoStar is a licensed provider of DBS services in the United States, and accordingly, its interest in this NPRM is clear.

must be modified before they are adopted so that the rules encourage, and do not impede, competition in the MVPD market.

I. ECHOSTAR SUPPORTS THE COMMISSION'S PROPOSALS TO STREAMLINE THE DBS SERVICE RULES

EchoStar supports the Commission's proposals to eliminate unnecessary and duplicative regulations. Like the Commission, EchoStar recognizes that "[c]onsolidating the regulation of all satellite services in one Part will eliminate inconsistencies in our rules, reduce confusion and uncertainty for users, lessen regulatory burdens for licensees, and simplify the development of advanced services."² Any reduction in regulatory burdens and confusion will benefit the DBS industry by reducing regulatory costs.

Specifically, EchoStar supports the Commission's proposal to adopt uniform application requirements for all satellite services, including DBS.³ This rule change will clarify the Commission's application process and eliminate the current uncertainties over which procedural rules apply to DBS applications. EchoStar does not believe that additional technical information beyond that required in Section 25.114 is needed to process DBS satellite applications.

Similarly, EchoStar supports the Commission's proposal to grant a construction permit, launch authorization and license for space station facilities through one application process. The Commission has correctly stated that:

² DBS NPRM at ¶ 13.

³ Id. at ¶ 22.

The existing Part 100 licensing procedures for DBS systems involve multiple steps, including the 45-day public notice and competing application cut-off periods in Section 100.15. These procedures can delay the DBS licensing process and are unduly burdensome. They are also inconsistent with the Commission's licensing practices for fixed and mobile satellite systems.⁴

Reduction in regulatory processing will "permit licensees to develop business plans with greater certainty," and in addition, it will reduce regulatory costs, thereby conserving Commission and private resources.⁵

At the same time, the Commission should emphasize that its proposed clarification and streamlining of the DBS process are not meant to effect or change the Commission's well-reasoned judgment that DBS permittees should be afforded regulatory flexibility.⁶

II. THE COMMISSION SHOULD IMPOSE A DBS CROSS-OWNERSHIP RESTRICTION

The NPRM's proposal on cable/DBS cross-ownership is similarly constructive so long as it is applied in an evenhanded manner. By the same token, such a restriction could seriously harm the public interest if it were to be fashioned so as to exempt the entities or transactions to which it should most forcefully be applied.

⁴ Id. at ¶ 24.

⁵ Id.

⁶ See In the matter of Processing Procedures Regarding the Direct Broadcast Satellite Service, 95 F.C.C.2d 250 (1983).

EchoStar supports, in principle, cross-ownership restrictions as between cable operators and DBS providers. Plainly put, such restrictions would prevent cable operators from co-opting DBS resources. As the Commission recently recognized, the cable industry still dominates the MVPD market:

The cable industry continues to occupy the dominant position in the MVPD marketplace. . . . The cable industry's large share of the MVPD audience . . . reflects an inability of consumers to switch to some comparable source of video programming.⁷

At the same time, DBS is the only source of tangible competition to cable that has emerged so far. While the Commission has imposed a ban on cable operators' acquisition of LMDS licenses to avoid the possible neutralization of the LMDS spectrum resource, it is not yet known whether the best use of this future technology is to compete against cable. By contrast, the potential for DBS to compete against cable is clear, and the Commission should be all the more intent on applying similar restrictions in this proceeding. Indeed, the Commission's decision to impose a cable/LMDS cross-ownership ban was in large part based on the past conduct of PRIMESTAR in the satellite area. That conduct is even more relevant here. Accordingly, strict and well-defined ownership limitations are necessary to halt the marginalization of DBS as a viable competitor to cable.

On the other hand, such a cross-ownership restriction would be arbitrary, meaningless and indeed harmful if it were not applied to the current effort of PRIMESTAR to acquire the DBS permit of MCI Telecommunications Corporation. As EchoStar demonstrated in

⁷ See In the Matter of Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, FCC 97-423 at ¶¶ 7-8 (1998) ("Fourth Annual Report").

its filings with the Commission, the PRIMESTAR transaction should be rejected for a variety of reasons.⁸ If the Commission were to approve this transaction, it would effectively be approving a market model where DBS would be consigned to be a complement, not a substitute, for cable.⁹ If granted, however, the transaction between PRIMESTAR and News Corp. would neutralize the 110° W.L. DBS resource. In such a case, it would be inappropriate to deny other DBS providers what, at that point, might sadly become their only choice – providing complementary services in conjunction with cable operators.

While EchoStar recognizes that a niche DBS service would be contrary to the Commission's often stated goal of making DBS an effective competitor to cable, it is the only outcome that would be consistent with approval of the PRIMESTAR transaction. The most competitive MVPD market is one where cable is restricted in its ownership of **all** DBS providers.

III. THE COMMISSION SHOULD NOT IMPOSE AN INTRA-SERVICE CAP ON DBS SPECTRUM, BUT SHOULD EVALUATE TRANSACTIONS ON A CASE-BY-CASE BASIS

The NPRM does not propose the imposition of any "intra-service" cap on DBS spectrum, and EchoStar agrees with this approach. Intra-service restrictions imposed regardless

⁸ See Petition to Dismiss or Deny of EchoStar Communications Corporation, File No. 91-SAT-TC-97 (filed Aug. 22, 1997); Petition of EchoStar Communications Corporation to Dismiss or Deny, File No. 106-SAT-AL-97 (filed Sept. 25, 1997); Reply of EchoStar Communications Corporation, File No. 106-SAT-AL-97 (filed Oct. 20, 1997); Opposition of EchoStar Communications Corporation to Ex Parte Submissions, File Nos. 91-SAT-TC-97, 106-SAT-AL-97 (filed Feb. 13, 1998).

⁹ EchoStar's business plan is to position itself as a full-fledged alternative to cable. To achieve this result, EchoStar entered into a joint venture with News Corp. incorporating the use of the 28 full-CONUS channels at 110° W.L. Access to the 110° W.L. would allow the offering of local channels to consumers in most U.S. metropolitan centers with the use of a single dish.

of each individual case do not make sense when the relevant product market for DBS providers is the MVPD market, and not necessarily the DBS market or satellite DTH market.¹⁰ Indeed, when reviewing the competitive effects of proposed transactions, the Commission determines the relevant product market by using a methodology similar to that described in the 1992 Merger Guidelines, defining “a product market as a service or group of services for which there are no close demand substitutes.”¹¹ Specifically, “the Commission must consider whether, if, in the absence of a regulation, all carriers raised the price of a particular service or group of services, customers would be able to switch to a substitute service offered at a lower price.”¹²

If there was any doubt that the MVPD market was the relevant market at the time of the Commission’s DBS rulemaking (when there was only one DBS provider offering a relatively different product), EchoStar has dispelled it with its product offerings. EchoStar competes in the same market as cable operators – albeit from a handicapped position. EchoStar prices its service to beat comparable cable packages and tries to make its offerings as close a substitute for a cable subscription as possible. If any other DBS provider, such as PRIMESTAR, intends to market *its* services as a less-than-close substitute for cable, it should not be allowed to invoke its own plan as evidence that DBS and cable distributors do not compete in the same market.

¹⁰ DBS NPRM at ¶ 60.

¹¹ In the Applications of NYNEX Corp. and Bell Atlantic Corp. for Consent to Transfer control of NYNEX Corp. and its Subsidiaries, FCC 97-286 at ¶ 50 (rel. Aug. 14, 1997)(“NYNEX/Bell Atlantic”).

¹² Id.

Furthermore, important changes have taken place since 1995, when the Commission had imposed a *one-time* restriction on the number of full-CONUS locations assigned to each DBS permittee. At that time, the Commission had expected that no two full-CONUS locations could be used in conjunction with only one dish. Since that time, EchoStar developed a plan to use a single dish to provide service from two full-CONUS slots; indeed, such a service is important to EchoStar's strategy of incorporating local broadcast signals and taking on the cable monopolies.¹³ EchoStar notes in this regard that the basis for the 1995 one-time restriction was the Commission's desire to avoid creating niche DBS players that would have to resort to a strategy of product differentiation instead of competing against cable operators across the board.¹⁴ In light of the intervening developments, however, these same considerations should keep the Commission from considering any such a priori cap today. Rather, the Commission should continue to evaluate transactions resulting in a greater aggregation of DBS spectrum on a case-by-case basis.

IV. THE COMMISSION SHOULD GRANT ECHOSTAR'S PENDING REQUEST FOR 11 WESTERN CHANNELS

In the DBS NPRM, the Commission states that there are a total of 27 channels at four different locations which remain unassigned to a DBS provider.¹⁵ The DBS NPRM

¹³ EchoStar notes that other DBS providers have not embraced a similar plan, and an acquisition of such other providers of additional full-CONUS spectrum may not present the same pro-competitive characteristics.

¹⁴ Revision of Rules and Policies For The Direct Broadcast Satellite Service, 1 Comm. Reg. (P&F) 928, 946 (1995).

¹⁵ DBS NPRM at ¶ 10.

continues that the Commission has not yet proposed when it will auction these unassigned DBS channels.¹⁶

While EchoStar does not necessarily object at this time to the Commission's proposal to auction unassigned channels, the Commission's listing of "unassigned" channels disregards EchoStar Satellite Corporation's ("ESC") permit for 11 unspecified western channels. Since 1992, the Commission has not decided whether ESC has satisfied the first prong of its due diligence with respect to the western part of its system despite ESC's repeated showings.¹⁷ Since December 1995, the Commission has similarly deferred decision on whether to extend ESC's permit for these assignments.¹⁸ ESC has shown that it has satisfied the first prong of its due diligence, and respectfully awaits its 11 western assignments. The assignment of 10 of these channels at 175° W.L. would allow ESC to collocate its system with its affiliates Directsat and DBSC. Such an assignment might help allow a viable DBS service from the westernmost DBS location. Accordingly, any proposed auction of the 27 unassigned channels should be postponed pending a decision by the Commission on EchoStar's due diligence showing. Regarding the Commission's proposal to incorporate by reference the general auction rules of Part 1, EchoStar suggests that such a broadbrush approach might not capture all the particularities of the DBS service, the only satellite service to be subject to auction procedures. EchoStar believes that the

¹⁶ Id.

¹⁷ See EchoStar Satellite Corporation Due Diligence Shoring, File No. DBS-88-01 (filed June 4, 1992).

¹⁸ See EchoStar Satellite Corporation, 11 FCC Rcd. 3017, 3019 (1996).

Commission should defer that decision and conduct a detailed review of the general auction rules and their applicability to DBS and any need for departures, when it decides to conduct the next DBS auction.

V. THE COMMISSION MUST CLARIFY THE PROPOSED MODIFICATIONS TO ITS DBS GEOGRAPHIC SERVICE REQUIREMENT

The Commission has invited comment on its geographic service requirements.

EchoStar will soon introduce the first-ever DBS service to Alaska and Hawaii from the 119° W.L. orbital location, even though it is not required to do so under the current rules. At the same time, EchoStar is opposed to the undue expansion of these rules and the adoption of an “off-shore states policy.” DBS providers, the new entrants in the MVPD market, are already subject to several regulatory burdens that do not apply to incumbent cable operators. By their nature, these burdens will further hamper the DBS providers’ ability to compete against cable.

A. Service to Alaska and Hawaii

In the DBS NPRM, the Commission has proposed to eliminate Section 100.53(a), and interpret Section 100.53(b) of the DBS rules as requiring DBS service (where technically feasible) to Alaska and Hawaii if: (1) the DBS licensee was granted an authorization after January 19, 1996; or (2) the licensee was granted an authorization prior to January 19, 1996 and it requests an extension of time or renewal of its license.¹⁹

EchoStar does not, in principle, object to the elimination of Section 100.53(a), so long as the Commission agrees to grandfather DBS permittees with pre-1996 authorizations from

¹⁹ DBS NPRM at ¶ 33.

any new geographic service requirements.²⁰ For this very reason, EchoStar objects to the proposed “clarification” of Section 100.53(b) by the Commission. Under this proposal, the renewal or extension of pre-existing authorizations would automatically trigger additional geographic services obligation. This proposed rule would extend, instead of clarify, the scope of the geographic service rules.

Directsat’s eastern satellite is currently not equipped to serve Alaska and Hawaii,²¹ and the Commission has correctly exempted it from the geographic service rules. Extending its geographic service requirements to pre-existing permittees seeking a license renewal would essentially force Directsat to shut down its eastern satellite at the end of its current license. DBS satellites typically have a longer useful life than their license terms and should be allowed to continue to use them (with appropriate renewal authority) without additional service requirements. For the same reason, an existing permittee’s request for modification and/or launch authority should not trigger additional service obligations, particularly since the necessity to request launch authority is the Commission’s outdated practice of separately granting construction permits and launch authorizations. Extension requests should

²⁰ See In the Matter of Revision of Rules and Policies for the Direct Broadcast Satellite Service, 11 FCC Rcd. 9712, 9761 (1995) (“DBS Auction Order”) (stating that “[n]one of these parties has designed satellites capable of providing full service to Alaska and Hawaii from those eastern orbital locations. We will not adopt a rule that would immediately place the only operational systems in violation of our regulation.”).

²¹ On the other hand, ESC proposes to serve Alaska and Hawaii from 119° W.L. with its next satellite (to be launched soon) even though it has no obligation to do so under the rules.

also not trigger new geographic service rules, when the DBS permittee has made business and satellite design decisions in the absence of such requirements.

If the Commission were to apply the requirements to eastern licensees applying for renewals, it would be broadening the scope of the requirements and upsetting the balance struck in the 1995 rules. Accordingly, the Commission should eliminate the clause “extending, or renewing” from its proposed rule § 25.146(d), or at least strike “renewing” to protect renewals of the licenses of operational satellites with pre-1996 authorizations. Alternatively, the Commission should preserve the language of § 100.153(a) and clarify it as follows: “those with authorizations received prior to January 19, 1996 must serve Alaska and Hawaii from either their eastern or their western assignments.”²²

B. The Adoption of the Off-Shore States Policy Would be Detrimental to MVPD Competition

EchoStar opposes the adoption of an “off-shore states” policy which would require licensees of eastern channels to demonstrate service to Alaska and Hawaii prior to being “eligible to provide service from any eastern DBS channel assignments beyond their existing assignments.”²³ As indicated above, such a policy would effectively expand the geographic service rules in a way that providers with existing satellites could not possibly have considered in

²² EchoStar notes that the basis for the Commission’s proposal to eliminate § 100.53(a) is its concern with the possibility that DBS providers might make a rather far-fetched argument. See DBS NPRM at ¶¶ 35-36. While this argument would be conceivably available only to *EchoStar*, and *EchoStar* has recently had to request an extension of its milestones for certain of its western assignments, *EchoStar* has not made such an argument.

²³ DBS NPRM at ¶ 34.

deciding to go forward with their systems. Equally important, such a rule would only succeed in hindering competition to cable. Specifically, the policy would prevent DBS providers from providing a full range of DBS services because certain channels could not be used until service to Alaska and Hawaii is demonstrated. Meanwhile, cable operators – not subject to such a geographic service requirement – would be free to continue and expand their cable monopoly.

VI. THE COMMISSION’S PROPOSED TECHNICAL RULES

All deployed U.S. DBS systems depart in several respects from the parameters of the ITU Plan, which is based, among other things, on an analog model. The Commission has authorized the departures and has triggered the plan modification procedure where a permittee has shown that the departures will not increase the level of interference contemplated by the Plan or will not cause harmful interference to or from any authorized user of the spectrum. The Commission should continue that approach. With respect to systems exceeding the limits set forth in the Plan, EchoStar applauds the Commission’s proposal to delete the prohibition of Section 100.21.²⁴ The Commission should authorize systems exceeding those limits if the effect on the foreign system(s) is negligible or if, in the Commission’s judgment, there are reasonable assurances that the agreement of the affected administration(s) can be obtained.²⁵

EchoStar is opposed at this time to the development of U.S. rules “to supplement those specified in Appendices 530 and 530A.”²⁶ In particular, the power limits and antenna

²⁴ See id. at ¶ 45.

²⁵ See id. at ¶ 95.

²⁶ See id. at ¶ 47.

performance requirements that Part 25 imposes in the closely spaced environment of the Fixed-Satellite Service are totally inconsistent with the very nature of the high-power, direct-to-home small dish DBS service. For the same reason, the Commission should not deny protection to dishes smaller than 1 meter.

With respect to the possibility of closer spacing because foreign-licensed satellites may be authorized to serve the United States, EchoStar notes that the ITU Plan does not contemplate service to the United States from non-U.S. slots. Therefore, any such service authorized by the Commission would be a departure from the Plan pending the Plan's modification, and the foreign-licensed provider would need to protect U.S. providers.

With respect to Tracking, Telemetry and Command ("TT&C") operations, EchoStar has used in-band frequencies for its last two satellites in compliance with the Commission's expressed preferences in that regard. Nonetheless, the Commission should preserve some flexibility and not preclude out-of-band TT&C operations upon an adequate showing of harmful interference. In addition, EchoStar has subscribed to a Petition for Rulemaking asking the Commission to authorize extended C-band TT&C operations from Ka-band systems. EchoStar believes that the Commission should allow use of the extended C-band for TT&C operations of DBS systems.

Finally, EchoStar is opposed to imposing the satellite network control center requirement as currently proposed on DBS licensees. EchoStar, a small, entrepreneurial company, currently subcontracts a portion of its TT&C DBS operations, and should continue to have that flexibility in the future. Depriving EchoStar of such flexibility would be inconsistent with the Commission's vision of DBS as a service available for licensing to relatively small companies. Incorporating the DBS rules into Part 25 should not lose sight of the fact that, for

such substantive reasons, the DBS rules are different from those governing other satellite licensees.

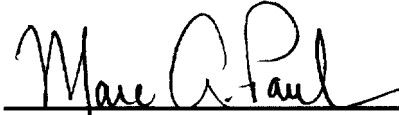
VII. CONCLUSION

For the foregoing reasons, the Commission should adopt the following rules as part of its effort to streamline DBS regulations: (1) harmonize its DBS rules with its satellite rules in Part 25 while preserving the nature of DBS as a lightly regulated service; (2) adopt a cable cross ownership restriction that applies to all DBS players; (3) postpone any auction of unassigned DBS channels pending a decision on EchoStar's previously filed due diligence showing; (4) evaluate DBS transactions on a case-by-case basis; and (5) avoid the undue expansion of geographic service rules. With the adoption of these rules, the Commission can be assured that the DBS industry will remain a viable competitor to the cable industry.

Respectfully submitted,

EchoStar Communications Corporation

By:

A handwritten signature in dark ink, appearing to read "Marc A. Paul", is written over a solid horizontal line.

David K. Moskowitz
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Dated: April 6, 1998

CERTIFICATE OF SERVICE

I, Marc A. Paul, hereby declare that the foregoing Comments of EchoStar was sent this 6th day of April, 1998, by messenger (indicated by *) or first-class mail to the following:

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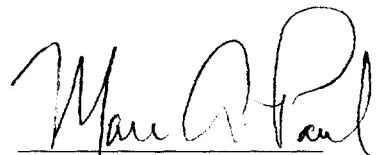
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